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The Honorable Frederick P. Corbit
Chapter 11

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re:
GIGA WATT INC.,
Debtor

Case No. 18-03197-FPC

**OBJECTION TO TRUSTEE'S (1)
APPLICATION FOR AWARD OF
COMPENSATION AND (2) MOTION
FOR AN ORDER AUTHORIZING
PAYMENT OF PREVIOUSLY
AWARDED BUT UNPAID
COMPENSATION**

MOTION

COMES NOW creditor Jun Dam, in propria persona, moves to request the Court to deny Trustee's application of award of compensation and Motion to authorize payment of compensation.

ARGUMENT

I. THE COURT SHOULD CONSIDER THE NATURE, THE EXTENT, AND VALUE OF
TRUSTEE SERVICES, TAKING INTO ACCOUNT ALL RELEVANT FACTORS TO
DETERMINE COMPENSATION

1 Trustee Waldron has calculated compensation based on the maximum allowed under 11 U.S.
2 Code § 326 instead of what is ‘reasonable’ under § 330. For Chapter 11 Trustees, the court
3 should consider all the following relevant factors pursuant to § 330(a)(3),(4):

- 4 (3) In determining the amount of reasonable compensation to be awarded to an examiner,
5 trustee under chapter 11, or professional person, the court shall consider the nature, the
6 extent, and the value of such services, taking into account all relevant factors, including—
7 (A) the time spent on such services;
8 (B) the rates charged for such services;
9 (C) whether the services were necessary to the administration of, or beneficial at
10 the time at which the service was rendered toward the completion of, a case under
11 this title;
12 (D) whether the services were performed within a reasonable amount of time
13 commensurate with the complexity, importance, and nature of the problem, issue,
14 or task addressed;
15 (E) with respect to a professional person, whether the person is board certified or
16 otherwise has demonstrated skill and experience in the bankruptcy field; and
17 (F) whether the compensation is reasonable based on the customary compensation
18 charged by comparably skilled practitioners in cases other than cases under this
19 title.

- 20 (4)
21 (A) Except as provided in subparagraph (B), the court shall not allow
22 compensation for—
23 (i) unnecessary duplication of services; or
24 (ii) services that were not—
25 (I) reasonably likely to benefit the debtor’s estate; or
26 (II) necessary to the administration of the case.

27 In *re McKinney*, 374 B.R. 726 (Bankr. N.D. Cal. 2007), the court asserted:
28 “Section 330(a)(3) requires the commission of chapter 11 trustees to be calculated under a
29 Lodestar approach.”

30 The BAP court asserted *In re Mednet*, 251 B.R. 103 (B.A.P. 9th Cir. 2000):
31

32 “A bankruptcy court also must examine the circumstances and the manner in which
33 services are performed and the results achieved in order to arrive at a determination of a

1 reasonable fee allowance. Such examination, in general, should include the following
2 questions: First, were the services authorized? Second, were the services necessary or
3 beneficial to the administration of the estate at the time they were rendered? Third, are the
4 services adequately documented? Fourth, are the fees requested reasonable, taking into
5 consideration the factors set forth in § 330(a)(3)? *See Unsecured Creditors' Comm. v.*
6 *Puget Sound Plywood, Inc.*, 924 F.2d 955, 957-58 (9th Cir. 1991). Finally, in making this
7 determination, the court must take into consideration whether the professional exercised
8 reasonable billing judgment.”

9 Also the BAP court noted:

10 “In Puget Sound, the Ninth Circuit stated that in performing services, the professional is
11 required to evaluate the following:

12 (a) Is the burden of the probable cost of legal services disproportionately large in
13 relation to the size of the estate and maximum probable recovery?

14 (b) To what extent will the estate suffer if the services are not rendered?

15 (c) To what extent may the estate benefit if the services are rendered and what is the
16 likelihood of the disputed issues being resolved successfully?

17 Id. at 959. The Ninth Circuit concluded: “[The attorney] had an obligation to consider the
18 potential for recovery and balance the effort required against the results that might be
19 achieved. Absent unusual circumstances, an attorney must scale his or her fee at least to
the reasonably expected recovery.” Id. at 961.”

20 The BAP court further asserted:

21 “As stated in *In re Riverside-Linden Investment Co.*, 925 F.2d 320, 321 (9th Cir. 1991),
22 **[w]hen a cost benefit analysis indicates that the only parties who will likely benefit
23 from [a service] are the trustee and his professionals,” the service is unwarranted and
24 a court does not abuse its discretion in denying fees for those services (citation and
internal quotation marks omitted).**”

1 The Court should also consider the following:

2 1) Most of the revenue the estate has generated was due to the Trustee's unauthorized use of
3 WTT token owner hosting facilities and miner machine owners equipment who are entitled to
4 compensation for their contributions as an administrative award or alternatively as compensation
5 from a breach of contract. Hence the cash available from the estate to pay for legal
6 administration fees should be far lower than reported.

7
8 2) The Trustee's sale of TNT facilities, lease and power contract to EcoChain, LLC for less than
9 salvage value has significantly harmed creditors and eliminated the potential for WTT token and
10 mining machine owners, who comprise 80-90% of all the creditors both in number and claim
11 size, to obtain substantial recovery by retaining hosting rights to Debtor's facilities and their
12 machines.

13
14 3) Creditor Dam has filed a complaint Adv. Proc. No. 20-80020 against the Trustee for breach of
15 contract, breach of fiduciary duty, professional negligence and unjust enrichment and that case
16 should be disposed before any Trustee compensation is awarded or paid.

17
18 4) The administrative legal fees that have accrued in this bankruptcy are likely to be substantially
19 greater than the total value of the estate assets. The Debtor is no longer operating as a going
20 concern and is effectively operating under a Chapter 7 liquidation. There are very few prospects
21 for any substantial estate recovery aside from lengthy and expensive litigation that should be
22 pursued on contingency. Although the Trustee and counsel have recently begun investigation
23 into Perkins Coie for a breach of escrow, the estate may not even have standing to litigate. WTT
24 token owners placed their money in escrow and have standing against Perkins Coie and Dave
25 Carlson. Hence the Court should carefully scrutinize all the Trustee activities to determine what
26 activities were necessary and beneficial to the estate in the past as well as going forward.

CONCLUSION

WHEREFORE, the Court should deny the Trustee's 1) application for award of compensation and 2) and Motion to authorize payment of compensation until Trustee submits time records and a detailed narrative statement for services so the Court can consider the nature, the extent, and value of Trustee services, taking into account all relevant factors to determine compensation.

Dated this 27th day of July, 2020

/s/ Jun. Dam
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CERTIFICATE OF SERVICE

I certify that a copy of this **OBJECTION TO TRUSTEE'S (1) APPLICATION FOR AWARD OF COMPENSATION AND (2) MOTION FOR AN ORDER AUTHORIZING PAYMENT OF PREVIOUSLY AWARDED BUT UNPAID COMPENSATION** was served by mail on the persons listed below:

Pamela Egan, The Potomac Law Group

Attorney for Mark D. Waldron, Chapter 11 Trustee

1905 7th Ave W

Seattle, WA 98119

Giga Watt Inc. - Chapter 11 Trustee

Mark D. Waldron

6711 Regents Blvd Ste B

Tacoma, WA 98466-5421

An electronic copy was also emailed to:

Ben Ellison as attorney for the OCUC - Salishsealegal@outlook.com

The United States Trustee - James.Perkins@usdoj.gov

Samuel Dart as attorney for CCWTHM - sdart@eisenhowerlaw.com

Date Served: 7/27/2020

Sign your name: Jun Dam

Print name: Jun Dam

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CERTIFICATE OF SERVICE

I certify that a copy of this **AMENDED COMPLAINT FOR BREACH OF FIDUCIARY DUTY; PROFESSIONAL NEGLIGENCE; UNJUST ENRICHMENT; BREACH OF CONTRACT** and **SUMMONS** was served by mail on the persons listed below:

Pamela Egan, The Potomac Law Group

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Date served on or before: 7/27/2020

Sign your name: Jun Dam

Print name: Jun Dam